

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 602 of 2000

with

CIVIL APPLICATION No.4979 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
ORIENTAL INSURANCE CO. LTD.

Versus

RASHIKLAL AMBALAL PATEL  
-----

Appearance:

MR KK NAIR for Petitioner

MR SS PANESAR for Respondent No. 1

NOTICE SERVED for Respondent No. 4, 5  
-----

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE K.M.MEHTA

Date of decision: 28/08/2000

Leave to delete respondents nos.4 and 5.

Admit. Service of which is waived by Learned Advocate, Mr. S. S. Panesar for respondents nos.1, 2 and 3. Upon joint request and in view of the urgency in the matter, the Appeal is taken up, today, for final hearing.

The amount of compensation of Rs.5,57,000/- awarded by the Motor Accident Claims Tribunal (Main), Baroda in MAC Petition No.776 of 1993 on 22-2-2000 for the premature untimely cutting short of life of a young, unmarried boy in an accident, which occurred, at 8.30 pm, on 3-4-1993 near Government Hospital, Savli-Baroda Road in the District of Baroda of account of dash of motor cycle on which he was going with the Truck No.GTC.4431, is exorbitant and excessive which requires our interference in exercise of our power under Section 173 of the Motor Vehicles Act ("Act" for short), is the sole question which is raised in this appeal, at the instance of Original Opponent, the Oriental Insurance Company Ltd. Deceased Ajaykumar was proceeding on a motor cycle along with his friend Amit on a pillion rider and was going towards Baroda on the day of accident. He was young, hale and hearty. He had sustained serious injuries and he succumbed to the same. The quantification of damage includes past and prospective work loss and the value of dependency on account of premature death of a young person. The main anxiety of the Tribunal, in a case like the one on hand, is to see that what dependency would have been, had there not been any accident in question in terms of money. In other words, the dependency value has to be ascertained and in order to reach a global sum towards the compensation appropriate multiplier has to be applied to the multiplicand.

Deceased Ajaykumar was doing contract work of construction work in the name and style of "Ajay Builders", at Godhra and he was earning Rs.60,000/- per year from the said business. In fact, he had also taken contract of his own. He was also literate. He had undergone computer courses. Deceased Ajaykumar was 24 years of age and he was unmarried and this aspect is not in dispute.

In support of the earning of the deceased, the respondent original claimants had produced before the Tribunal the documentary evidence in the form of work orders, the deduction of Income Tax at source. Deceased was paying Income Tax and he had produced Income Tax return and all

receipts of payments came to be produced at Ex. 31, 32 and 33. The claimants have laid evidence that deceased was earning Rs.1,25,000/- to Rs.1,50,000/- per year from the contract work. Deceased also was a Government approved contractor and certificate issued to this effect by Executive Engineer is placed on record. Deceased had done the construction work of Godhra Municipality and S.T. Corporation at Godhra. The receipts of the Income Tax for the year 1991-92 were produced. Annual Income of the deceased for the year 1991 was Rs.1,07,000/- and Rs.2,00,000/- in the year 1992. Accident occurred on 3-4-1993. Thus it becomes clear that the deceased was a promising young boy and apart from the experience in the construction work, he was doing contract work along with his father. He was also knowing computer work.

Considering the aforesaid aspects and facts, the Tribunal has taken his income per month at Rs.9,000/-. Therefore, annual income of the deceased is worked out by multiplying his monthly income by 12, which comes to Rs.1,08,000/-. The dependency value of the deceased is assessed at Rs.36,000/-. Deceased was 24 years of age at the relevant time and hence multiplier of 15 is adopted. Therefore, the Tribunal awarded an amount of Rs.36,000/x 15, the figure comes to Rs.5,40,000/-, under the head of loss of dependency value. An amount of Rs.17,000/- is awarded under the head of after death ceremony, transportation charges, etc.

After taking into account the submissions and the documentary evidence relied on by the Tribunal, of which copies were furnished by the Learned Advocate for the appellant, we find no justification in interfering with the impugned order and award. It is also well settled proposition of law that ordinarily Appellate Court in a case like one on hand should not interfere with the discretion exercised by the Tribunal in the analysis and evidence of the parties, unless (1) the amount awarded is astronomically higher or (2) grossly inadequate. In the result, the appeal must meet with only fate and that is the dismissal. Accordingly, it is dismissed with no order as to costs.

This Civil Application No.4979/2000 is dismissed in view of the judgement passed in the main matter.

(K.M. Mehta, J.)

vinod